

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW JERSEY**

----- X

**UTSCH'S MARINA, INC.**

**Plaintiff,**

**VS.**

**MOTOR VESSEL, "POPS WAY", A 1976  
26' PENN YAM, BEARING HULL ID  
NUMBER PYB26144M75G &  
REGISTRATION NUMBER NJ4159AK,  
HER ENGINES, TACKLE, APPAREL &  
HER APPURTENANCES IN REM &  
LARRY BESA IN PERSONAM *ETAL***

**Defendants**  
-----

**CIVIL ACTION NUMBER  
1:11-CV-04056-RMB-JS  
IN ADMIRALTY**

**AFFIDAVIT BY PLAINTIFF'S  
ATTORNEY IN SUPPORT  
OF MOTION TO CONFIRM  
INTERLOCUTORY SALE OF THE  
FOLLOWING VESSELS  
M/V, POPS WAY;  
M/V, 25' GRADY WHITE;  
M/V, GOLDEN GAFF;  
M/V, GRABBFISH;  
M/V, 29' LUHRS;  
S/V, MISS MILLIE;  
M/V, 34' SILVERTON;  
M/V, NEVER ENOUGH;  
M/V, MAVERICK  
M/V, CHILLIN OUT**

I, EUGENE J. McDONALD, being duly sworn upon my oath, depose and say:

1. I am the attorney for the Plaintiff, UTSCH'S MARINA, INC., in the above-captioned matter and make this Affidavit for and on behalf of Plaintiff in support of this application for confirmation of sale.

2. This Court entered an Order for Interlocutory Sale herein of the following Defendant Vessels, ( 1 through 10) on August 24, 2012 (Document # 85). Plaintiff, **UTSCH'S MARINA, INC.**, by its attorney, applies to this Court for an Order confirming the sale by the United States Marshal for the District of New Jersey of the following Defendant Vessels:

1. **MOTOR VESSEL, "POPS WAY", A 1976, 26' PENN YAN**, Bearing Hull ID Number PYB26144M75G & Registration Number NJ4159AK, Her Engines, Tackle, Apparel & Her Appurtenances, &
2. **MOTOR VESSEL, 1991, 25' Grady White**, Bearing Hull ID Number NTLCB508J091 and Registration Number NJ8418FS, Her Engines, Tackle, Apparel & Her Appurtenances, &
3. **MOTOR VESSEL, "Golden Gaff", a 1998, 27' 8" Bayliner**, Bearing Hull ID Number USCA278CK798 Registration Number NJ5671GH, Her Engines, Tackle, Apparel & Her Appurtenances, &
4. **MOTOR VESSEL, "Grabbenfish", a 1971, 28' Pacemaker**, Bearing Registration Number NJ2399FJ, Her Engines, Tackle, Apparel & Her Appurtenances, &
5. **MOTOR VESSEL, 1986, 29' Luhrs**, Bearing Hull ID Number LHR290026586, Registration Number PA6439CH, Her Engines Tackle, Apparel & Her Appurtenances, &
6. **SAILING VESSEL, "Miss Millie, a 1978 27' Buccaneer Sailboat**, Bearing Hull ID Number BLBE97971077-8Z & Registration Number NJ 7363CA, and trailer bearing Tag Number TUA 705, Her Shorelander Trailer, Her Engines, Tackle, Apparel & Her Appurtenances, &
7. **MOTOR VESSEL, A 34' SILVERTON**, Bearing Hull ID Number STNO2318M80E34C & Registration Number NJ5687WK, Her Engines, Tackle, Apparel & Her Appurtenances, &
8. **MOTOR VESSEL, "NEVER ENOUGH", A 1975 30' TROJAN**, Bearing Hull ID Number TRJO52631074 & Registration Number NJ5320FH, Her Engines, Tackle, Apparel & Her Appurtenances, &
9. **MOTOR VESSEL, "MAVERICK", A 1986 34' Silverton**, Bearing Hull ID Number STN34267H485 & Registration Number NJ8450FB, Her Engines, Tackle, Apparel & Her Appurtenances, &
10. **MOTOR VESSEL, "CHILLIN OUT", a 25' Parker**, Bearing Hull ID Number PXM25572K990 & Registration Number NJ0439FO, Her Engines, Tackle, Apparel & Her Appurtenances,

after giving public notice by publication of the sale in the form and manner required by said Order, and as required by law, in The Press of Atlantic City a newspaper of general circulation, once a day for six (6) consecutive days before the sale.

3. The sale of the above Defendant Vessels, 1 through 10 was duly and regularly conducted by Anne Marie Leone, Deputy United States Marshal, as advertised and as

provided in said Order, on September 20, 2012, at UTSCHE'S MARINA, INC., 1121 Rt. 109, Schellengers Landing, Cape May, NJ 08204.

4. I attended the Marshal's sale on behalf of Plaintiff, UTSCHE'S MARINA, INC. Beside myself as Plaintiff's representative, Deputy US Marshal Leone, Ernest Utsch, President of UTSCHE'S MARINA, INC., and marina personal, I observed approximately 24 members of the general public in attendance;

5. Deputy U.S. Marshal Leone arrived before the appointed time of 10:00 AM. to allow time for potential Bidder's to inspect the Vessels and fill out the requisite "Bidder Registration Form".

6. Thereafter, the Undersign, along with Deputy U.S. Marshal Leone, Ernest Utsch, and the approximate 24 members of the general public gathered into a large open area bay/repair shop where the actual auction began at approximately 10:30 AM., and ended at 11:35 AM, as advertised and as provided in said Order.

7. Of the approximate 24 members of the general public in attendance, Fourteen (14) were actual bidders. Attached as Exhibit A are the Fourteen (14) "Bidder Registration Form(s)". The following is a list of the ten (10) defendant vessels, and the successful bidder and the dollar amount:

**1. MOTOR VESSEL, "POPS WAY", A 1976, 26' PENN YAN**, Bearing Hull ID Number PYB26144M75G & Registration Number NJ4159AK, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCHE'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**2. MOTOR VESSEL, 1991, 25' Grady White**, Bearing Hull ID Number NTLCB508J091 and Registration Number NJ8418FS, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCHE'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**3. MOTOR VESSEL, "Golden Gaff", a 1998, 27' 8" Bayliner**, Bearing Hull ID Number USCA278CK798 Registration Number NJ5671GH, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Bruce E. Powell of Bala Cynwyd, Pa., on his "cash bid", of \$9,000.00, (Nine Thousand, Dollars and 00/100 Cents), &

**4.MOTOR VESSEL, “Grabbenfish”, a 1971, 28' Pacemaker**, Bearing Registration Number NJ2399FJ, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH’S MARINA, INC., on its “credit bid”, of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**5.MOTOR VESSEL, 1986, 29' Luhrs**, Bearing Hull ID Number LHR290026586, Registration Number PA6439CH, Her Engines Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH’S MARINA, INC., on its “credit bid”, of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**6.SAILING VESSEL, “ Miss Millie**, a 1978 27' Buccaneer Sailboat, Bearing Hull ID Number BLBE97971077-8Z & Registration Number NJ 7363CA, and trailer bearing Tag Number TUA 705, Her Shorelander Trailer, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH’S MARINA, INC., on its “credit bid”, of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**7.MOTOR VESSEL, A 34' SILVERTON**, Bearing Hull ID Number STNO2318M80E34C & Registration Number NJ5687WK, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH’S MARINA, INC., on its “credit bid”, of \$4,500.00, (Four Thousand Five Hundred Dollars and 00/100 Cents), by Eugene J. McDonald on behalf of the plaintiff, &

**8.MOTOR VESSEL, “NEVER ENOUGH”, A 1975 30' TROJAN**, Bearing Hull ID Number TRJO52631074 & Registration Number NJ5320FH, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH’S MARINA, INC., on its “credit bid”, of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**9.MOTOR VESSEL, “MAVERICK”, A 1986 34' Silverton**, Bearing Hull ID Number STN34267H485 & Registration Number NJ8450FB, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Keith Perkins of West Chester, Pa., on his “cash bid”, of \$6,000.00, (Six Thousand Dollars and 00/100 Cents), &

**10.MOTOR VESSEL, “CHILLIN OUT”, a 25' Parker**, Bearing Hull ID Number PXM25572K990 & Registration Number NJ0439FO, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Raymond J. Small, Jr. of Fishing Creek, NJ, on his “cash bid”, of \$4,500.00, (Four Thousand, Five Hundred Dollars and 00/100 Cents), and respectfully states as follows:

8. Attached as Exhibit B are: Form USM 285, U.S. Marshalls Service Purchaser Signature Form, & U.S. Marshalls Service List of Bidders, (as tabulated by Deputy United States Marshal Leone), for each of the successful bidders, for each of the defendant vessels sold by Deputy U.S. Marshal Leone.



9. All three (Public/Cash) bidders, Mr. Bruce E. Powell, Mr. Keith Perkins, and Mr. Raymond J. Small, Jr. have paid in full, by way Certified and/or Bank checks drawn on a New Jersey Bank, per Order of Sale. The Certified and/or Bank checks were taken by Deputy U.S. Marshal Leone for deposit with the Marshall.

10. Attached as Exhibit C, are copies of "Receipt for Cash-Subvoucher(s)" given to: (1), Mr. Bruce E. Powell of Bala Cynwyd, Pa., on his "cash bid", of \$9,000.00 for the No.3 M/V listed above, the MOTOR VESSEL, "Golden Gaff", a 1998, 27' 8" Bayliner; (2), given to Mr. Keith Perkins of West Chester, Pa., on his "cash bid", of \$6,000.00, for the No. 9 M/V listed above, the MOTOR VESSEL, "MAVERICK", A 1986 34' Silverton MOTOR VESSEL, and (3), given to Mr. Raymond J. Small, Jr. of Fishing Creek, NJ, on his "cash bid", of \$4,500.00, for the No. 10 M/V listed above, the MOTOR VESSEL, "CHILLIN OUT", a 25' Parker, by Deputy United States Marshal Leone.

11. The above stated "credit bids" by the Undersigned on behalf the plaintiff Utsch and "cash bids" of Messrs. Powell, Perkins, and Small were the highest bid for each of the vessel. [See U.S. Marshalls Service List of Bidders, as tabulated by Deputy U S Marshal Leone, for each of the successful bidders, for each of the defendant vessels which are part of Exhibit C.].

12. Since said sale, I have received no oral or written objections from any person(s) contending that the sale the above Defendant Vessels, (1 through 10) was not adequately advertised.

13. The undersigned is advised and represents to the Court that each bid represents a fair and reasonable price for each of the said vessel, its engines, boilers, machinery, tackle, apparel, furniture and equipment, considering their present condition.

I make this Affidavit in support of plaintiff UTSCH'S MARINA, INC., Motion for an Order confirming the Marshall Sale of the above ten (10) defendant vessels as follows:

**1. MOTOR VESSEL, "POPS WAY", A 1976, 26' PENN YAN, Bearing Hull ID Number PYB26144M75G & Registration Number NJ4159AK, Her Engines, Tackle,**

Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**2.MOTOR VESSEL, 1991, 25' Grady White**, Bearing Hull ID Number NTLCB508J091 and Registration Number NJ8418FS, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**3.MOTOR VESSEL, "Golden Gaff", a 1998, 27' 8" Bayliner**, Bearing Hull ID Number USCA278CK798 Registration Number NJ5671GH, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Bruce E. Powell of Bala Cynwyd, Pa., on his "cash bid", of \$9,000.00, (Nine Thousand, Dollars and 00/100 Cents), &

**4.MOTOR VESSEL, "Grabbenfish", a 1971, 28' Pacemaker**, Bearing Registration Number NJ2399FJ, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**5.MOTOR VESSEL, 1986, 29' Luhrs**, Bearing Hull ID Number LHR290026586, Registration Number PA6439CH, Her Engines Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**6.SAILING VESSEL, "Miss Millie, a 1978 27' Buccaneer Sailboat**, Bearing Hull ID Number BLBE97971077-8Z & Registration Number NJ 7363CA, and trailer bearing Tag Number TUA 705, Her Shorelander Trailer, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**7.MOTOR VESSEL, A 34' SILVERTON**, Bearing Hull ID Number STNO2318M80E34C & Registration Number NJ5687WK, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$4,500.00, (Four Thousand Five Hundred Dollars and 00/100 Cents), by Eugene J. McDonald on behalf of the plaintiff, &

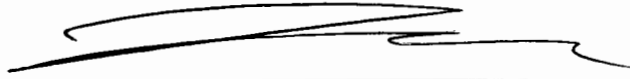
**8.MOTOR VESSEL, "NEVER ENOUGH", A 1975 30' TROJAN**, Bearing Hull ID Number TRJO52631074 & Registration Number NJ5320FH, Her Engines, Tackle, Apparel & Her Appurtenances, to the Plaintiff, UTSCH'S MARINA, INC., on its "credit bid", of \$ 500.00, (Five Hundred Dollars), by Eugene J. McDonald on behalf of the plaintiff, &

**9.MOTOR VESSEL, "MAVERICK", A 1986 34' Silverton**, Bearing Hull ID Number STN34267H485 & Registration Number NJ8450FB, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Keith Perkins of West Chester, Pa., on his "cash bid", of \$6,000.00, (Six Thousand Dollars and 00/100 Cents), &

10. **MOTOR VESSEL, "CHILLIN OUT", a 25' Parker**, Bearing Hull ID Number PXM25572K990 & Registration Number NJ0439FO, Her Engines, Tackle, Apparel & Her Appurtenances, to Mr. Raymond J. Small, Jr. of Fishing Creek, NJ, on his "cash bid", of \$4,500.00, (Four Thousand, Five Hundred Dollars and 00/100 Cents), &

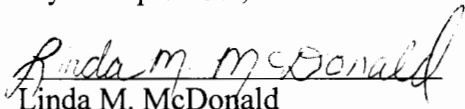
for an Order, directing Juan Mattos, United States Marshal, for the District of New Jersey issue Bills of Sale for the of the above ten (10) defendant vessels to UTSCH'S MARINA, INC., Mr. Bruce E. Powell, Mr. Keith Perkins, and Mr. Raymond J. Small, Jr. for their respective vessels they purchased at the sale. The above stated facts are true to the best of my knowledge, and belief. I am aware that if any of the above stated facts are willfully false, I am subject to punishment.

**Dated:** September 24, 2011



EUGENE J. McDONALD, ESQ.  
170 Broad Street  
Matawan, NJ 07747  
Telephone: 732-583-8485  
Attorney for Plaintiff  
UTSCH'S MARINA, INC.,

Sworn and subscribed before me this 24<sup>th</sup>  
day of September, 2012



Linda M. McDonald  
Notary Public State of New Jersey  
ID No. 2197485  
Commission Expires 3/18/2012